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OFFICE OF PETITIONS

In re Patent No. 6,873,304 :
Issue Date: March 29, 2005 :DECISION GRANTING PETITION
Application No. 10/621,799 :UNDER 37 CFR 1.137(b)
Filed: July 17, 2003 :
Attorney Docket No. MA51-001 :

This is a decision on the petition, filed August 19, 2005, which is being treated as a petition under 37 CFR 1.137(b) to accept an unintentionally delayed notification to the U.S. Patent and Trademark Office (USPTO) of the filing of an application in a foreign country or under a multinational treaty that requires publication of applications eighteen months after filing. See 37 CFR 1.137(f).

The petition under 37 CFR 1.137(b) is GRANTED.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on November 29, 2004. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country. Therefore, pursuant to the provisions of 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c), petitioner failed to timely notify the USPTO of the filing of a counterpart application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(b) to accept an unintentionally delayed notification to the USPTO of the filing of a counterpart application in an eighteen month publication country must be accompanied by:


- (1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

- (2) the petition fee as set forth in 37 CFR 1.17(m);
and
- (3) a statement that the entire delay in filing the
required reply from the due date of the reply until
the filing of a grantable petition was
unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days as provided by 35 U.S.C. § 122(b)(2)(B)(iii) is accepted as having been unintentionally delayed.

This application matured into Patent No. 6,873,304 on March 29, 2005. Therefore, no further action herein is required.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3218.


Frances Hicks
Petitions Examiner
Office of Petitions